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Attorneys for Defendant Apotex Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

TAKEDA PHARMACEUTICALS
AMERICA, INC., TAKEDA
PHARMACEUTICALS U.S.A., INC., and
ARIAD PHARMACEUTICALS, INC.,

Plaintiffs,

v.

APOTEX INC.,

Defendant.

C.A. No.: 2:21-cv-12998-KM-AME

**DECLARATION OF JORDAN P. MARKHAM
IN SUPPORT OF APOTEX'S OPENING MARKMAN BRIEF**

I, JORDAN P. MARKHAM, hereby declare as follows:

1. I am an attorney-at-law in good standing in the State of New York, am admitted *pro hac vice* to practice in this Judicial District, and am counsel at the firm Steptoe & Johnson LLP. I am an attorney for Defendant Apotex Inc. in the above-captioned matter. I make this declaration in support of Apotex's Opening *Markman* Brief. If called to testify, I could and would testify competently to the following facts:

2. Attached as **Exhibit 1** is a true and correct copy of United States Patent No. 9,493,470 (the "'470 patent").

3. Attached as **Exhibit 2** is a true and correct copy of United States Patent No. 11,192,895 (the "'895 patent").

4. Attached as **Exhibit 3** is a true and correct copy of United States Patent No. 11,192,897 (the "'897 patent").

5. Attached as **Exhibit 4** is a true and correct copy of International Publication No. WO 2011/053938.

6. Attached as **Exhibit 5** is a true and correct copy of U.S. Patent No. 8,114,874.

7. Attached as **Exhibit 6** is a true and correct copy of Thomas O'Hare et al., "AP24534, a Pan-BCR-ABL Inhibitor for Chronic Myeloid Leukemia, Potently Inhibits the T315I Mutant and Overcomes Mutation- Based Resistance," 16 CANCER CELL 401 (2009).

8. Attached as **Exhibit 7** is a true and correct excerpt from the Certified File History of U.S. Application No. 14/651,577, which issued as the '470 patent.

9. Attached as **Exhibit 8** is a true and correct excerpt from the Certified File History of U.S. Application No. 17/318,677, which issued as the '895 patent.

10. Attached as **Exhibit 9** is true and correct excerpt from the Certified File History of U.S. Application No. 17/318,832, which issued as the '897 patent.

11. Attached as **Exhibit 10** is a true and correct excerpt from Dorland's Illustrated Medical Dictionary (30th ed. 2003).

12. Attached as **Exhibit 11** is a true and correct excerpt from Am. Heritage Dictionary of the English Language 1724 (4th ed. 2006).

13. Attached as **Exhibit 12** is a true and correct copy of Jacqueline M. Tarrant et al., "Diagnosis of Chronic Myelogenous Leukemia in a Dog using Morphologic, Cytochemical, and Flow Cytometric Techniques," 30 VETERINARY CLINICAL PATHOLOGY 19 (2001).

14. Attached as **Exhibit 13** is a true and correct copy of Matthew J. Breen & Jaime F. Modiano, "Evolutionarily conserved cytogenetic changes in hematological malignancies of dogs and humans - man and his best friend share more than companionship," 16 CHROMOSOME RES. 145 (2008).

15. Attached as **Exhibit 14** is a true and correct copy of Maria E. Gelain et al., "Chronic eosinophilic leukemia in a cat: cytochemical and immunophenotypical features," 35(4) VETERINARY CLINICAL PATHOLOGY (2006).

16. Attached as **Exhibit 15** is a true and correct copy of Bruno Calabretta & Danilo Perroti, "The Biology of CML Blast Crisis," 103 REV. TRANSLATIONAL HEMATOLOGY 4010 (2004).

17. Attached as **Exhibit 16** is a true and correct copy of Warren H. Evans, et al., "Busulfan versus cyclophosphamide treatment in the early and late stages of granulocytic leukemia in guinea pigs," 8(6) LEUKEMIA RES. 1037 (1984).

18. Attached as **Exhibit 17** is a true and correct copy of Warren H. Evans, et al., “Transplantable Granulocytic Leukemia in Strain 13 Guinea Pigs,” 38 CANCER RES. 130 (1978).

19. Attached as **Exhibit 18** is a true and correct copy of Raimon Duran-Struuck et al., “Myelogenous Leukemia in Adult Inbred MHC Defined Miniature Swine: a model for human myeloid leukemia,” 135 VETERINARY IMMUNOLOGY IMMUNOPATHOLOGY 243 (2010).

20. Attached as **Exhibit 19** is a true and correct copy of Jennifer L. Wiley, et al., “Chronic Myelogenous Leukemia in a Great Horned Owl (*Bubo virginianus*),” 23(1) J AVIAN MED. & SURGERY 36 (2009).

21. Attached as **Exhibit 20** is a true and correct copy of T. Mori et al., “Acute Myelomonocytic Leukemia in a Horse” 28 VETERINARY PATHOLOGY 344 (1991).

22. Attached as **Exhibit 21** is a true and correct copy of Takashi Takahashi et al., “Myeloblastic Leukemia with Massive Neoplastic Infiltration of the Skin and Mediastinum in a Cow,” 62(4) J. VETERINARY MED. SCI. 461 (2000).

23. Attached as **Exhibit 22** is a true and correct copy of Raymond E. Stephens et al., “Multiple protein differences distinguish clam leukemia cells from normal hemocytes: evidence for the involvement of p53 homologues,” 129 COMPARATIVE BIOCHEMISTRY & PHYSIOLOGY PART C 329 (2001).

24. Attached as **Exhibit 23** is a true and correct copy of William D. Eaton and Michael L. Kent, “A Retrovirus in Chinook Salmon (*Oncorhynchus tshawytscha*) with Plasmacytoid Leukemia and Evidence for the Etiology of the Disease,” 52 CANCER RES. 6496 (1992).

25. Attached as **Exhibit 24** is a true and correct copy of Maryanne E. Toci dlowski et al., “Myelogenous Leukemia in a Bearded Dragon (*Acanthodrac o vitticeps*),” 32(01) J. Zoo & Wildlife Med. 90 (2001).

26. Attached as **Exhibit 25** is a true and correct copy of U.S. Patent No. 8,173,158.

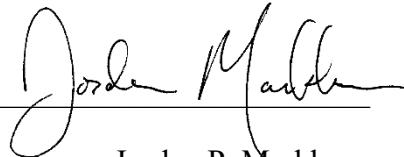
27. Attached as **Exhibit 26** is a true and correct copy of U.S. Patent No. 6,258,823.

28. Attached as **Exhibit 27** is a true and correct copy of Catherine Takawira et al., “Association of Chronic Myelogenous (Basophilic) Leukemia and the BCR/ABL Mutation in a Yucatan Barrow (*Sus scrofa domestica*),” 7 FRONTIERS IN VETERINARY SCI. 1 (2020).

29. Attached as **Exhibit 28** is a true and correct copy of Amrita V. Kamath et al., “Preclinical pharmacokinetics and in vitro metabolism of dasatinib (BMS-354825): a potent oral multi-targeted kinase inhibitor against SRC and BCR-ABL,” 61 CANCER CHEMOTHERAPY PHARMACOLOGY 365 (2008).

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct. Executed on this 13th day of June, 2022, in New York, New York.

Dated: June 13, 2022


Jordan P. Markham

CERTIFICATE OF SERVICE

I hereby certify that on this date, a copy of **DECLARATION OF JORDAN P. MARKHAM IN SUPPORT OF APOTEX'S OPENING MARKMAN BRIEF** was electronically served on all counsel of record via the Court's electronic filing system and email.

By: /s/Vishal Gupta

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